

### **REMARKS**

The present application has been reviewed in light of the Final Office Action mailed June 2, 2009. By the present amendment, claims 1 and 2 have been amended as to clarify the claimed subject matter.

The Examiner is thanked for the courtesies extended during the personal interview conducted telephonically on August 10, 2009 in connection with this case, the substance of which is reflected in the following remarks.

None of the cited references and other references of record discloses or fairly suggests a surgical fastener having at least one capillary disposed on an external surface of at least one of the base leg or support leg having a reservoir defined therein for retaining a liquid, each of said at least one capillary being rupturable to dispense said liquid upon actuation of the surgical instrument and simultaneously with the deformation of each surgical fastener.

Claims 1 and 2 as amended herein recite in pertinent part at least one capillary disposed on an external surface of at least one of the base leg or support leg having a reservoir defined therein for retaining a liquid, each of said at least one capillary being rupturable to dispense said liquid upon actuation of the surgical instrument and simultaneously with the deformation of each surgical fastener, and are therefore patentable over the cited references and other references of record.

If an independent claim is patentable, then any claim depending therefrom is also patentable. Claims 3-9 depend directly or indirectly from independent claims 1 and 2.

Because claims 1 and 2 as amended are patentable, Applicant respectfully submits that claims 3-9 are also patentable and in condition for allowance.

**CONCLUSION**

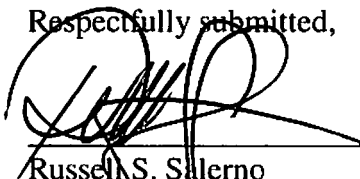
In light of the foregoing, Applicant respectfully submits that independent claims 1-2 and dependent claims 3-8 as currently presented are patentably distinguishable over the cited references and the other references of record. Accordingly, early and favorable consideration of this application is earnestly requested.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, she is respectfully requested to contact Applicant's attorney at the number indicated below.

Please charge any deficiency as well as any other fee(s) that may become due under 37 C.F.R. § 1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s), to Deposit Account No. 21-0550.

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Respectfully submitted,

  
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